

James C. Morriss III
Thompson & Knight LLP
1900 San Jacinto Center
98 San Jacinto Boulevard
Austin, Texas 78701-4081

RE: Gulfco Marine Maintenance Superfund Site in Freeport Texas

Dear Mr. Morriss:

I am responding to your May 5, 2005 submittal of an Investigative and Interim Removal Action Work Plan (Plan) for the Gulfco Marine Maintenance Superfund Site (Gulfco Site). The Investigative and Interim Action Work Plan supplemented your original February 23, 2005 proposal to conduct cleanup of the Gulfco Site under the Texas Voluntary Cleanup Program (TX VCP).

Since July 2004, EPA has been exploring with your group, consisting of Dow, Sequa, and LDL Coastal (hereinafter referred to as "Potentially Responsible Parties [PRP] Group"), ways in which to meet the goal of quick cleanup of the Gulfco Site in order to delete it from the NPL. EPA initially negotiated with the PRP Group for seven months to enter into an Administrative Order on Consent to conduct a Remedial Investigation and Feasibility Study (RI/FS) at the Gulfco Site.

As the RI/FS negotiations, were wrapping up, the PRP Group proposed exploring a two year cleanup of the Gulfco Site under the Texas VCP in order to meet our mutual goal of a quick cleanup. As EPA is flexible as to how Sites are cleaned up as long as our goal of a quick cleanup that is consistent with other National Priorities List (NPL) actions is met, EPA agreed to explore the PRP Group's proposal with an eye on quickly finding a mutual acceptable cleanup that would facilitate the Gulfco Site's deletion from the NPL.

To that end, EPA has met with the PRP Group repeatedly and exchanged letters in order to advance the process of getting to a detailed cleanup proposal that EPA could accept. Part of the PRP Group's proposal that EPA asked for was a detailed Investigation and Interim Removal Work Plan. The Investigation and Interim Removal Work Plan that was submitted on May 5, 2005 for EPA review was woefully deficient from the level of detail that EPA had requested from you. At this time, EPA does not intend to provide detailed comment because the Plan provided is insufficient for an in depth review.

Based on the PRP's Group inability to submit a detailed cleanup proposal and the

foregoing reasons, EPA has reached the conclusion that EPA can no longer pursue the PRP Group's proposal:

- (1) The PRP Group has failed to demonstrate your stated commitment to the Gulfco Site cleanup with substantive actions.
- (2) It will take too long to get the Gulfco Site cleaned up under the PRP Group proposal based upon the length of time it has taken attempting to get adequate information from the PRP Group for their proposal.
- (3) The PRP Group has been inflexible as to tweaking their proposal despite our repeated attempts to communicate EPA's concerns.
- (4) The PRP Group has ignored EPA's minimum requirements to delete the Gulfco Site from the NPL despite EPA's written and verbal requests.
- (5) The PRP Group has made numerous positive representations towards the cleanup of the Gulfco Site and then failed to submit in accordance with those representations.
- (6) The PRP Group promised in an April 1, 2005 meeting to provide a detailed plan for the investigation of the Gulfco Site and then submitted a skeleton plan that lacked 90% of required sampling and many substantive analysis requirements.
- (7) The PRP Group promised to submit of an Investigative Work Plan on April 18, 2005 and then blamed EPA for their self-imposed three week delay.
- (8) The PRP Group has disregarded EPA's feedback on the Investigative and Interim Removal Action Work Plan and questioned EPA's authority to request reports detailing potential activity at the Site.
- (9) The PRP Group has failed to adequately address EPA's repeated concerns that the cleanup address the community's concerns and that there is adequate public participation.
- (10) The PRP Group has rejected EPA's oversight role which was indicated in the Regional Administrator's Letter to Governor Perry on April 13, 2005.

It is reasonable for EPA to expect from the PRP Group a comprehensive written proposal that includes timely, detailed, promised submittal of the Investigation and Interim Removal Action Work Plan in order to cleanup and delist the Gulfco Site. The PRP Group has worked at other Superfund Sites and is familiar with EPA expectations as to Site cleanup. Three months have passed and EPA is still awaiting the full details of the PRP Group's proposal. Because of EPA's goal to clean up the Site quickly and the PRP Group's difficulty in providing a detailed plan, EPA will no longer pursue the PRP Group's proposal and is looking into other options that will quickly clean up the Gulfco Site and return it to productive reuse.

Sincerely yours,

Samuel Coleman, P.E.
Director
Superfund Division

cc: Bill Mahley
Allen Daniels